



Agricultural Marketing Service

7 CFR Part 52

[Doc. No. AMS-SC-21-0091]

United States Standards for Grades of Processed Raisins

AGENCY: Agricultural Marketing Service, Department of Agriculture (USDA).

ACTION: Final rule.

SUMMARY: The Agricultural Marketing Service (AMS) of the Department of Agriculture (USDA) has revised the U.S. Standards for Grades of Processed Raisins. AMS is modifying two references to the allowances for capstems within the standards to modernize the standards to reflect current industry practices. The revision also includes minor editorial changes to the table headings to align with updated Code of Federal Regulations (CFR) formatting requirements and correction of a typographical error from a previous revision.

DATES: Effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Brian E. Griffin, USDA, Specialty Crops Inspection Division, 100 Riverside Parkway, Suite 101, Fredericksburg, VA 22406; Telephone (202) 748-2155; Fax (202) 690-1527; or Email SCISStandards@usda.gov. Copies of the U.S. Standards for Grades of Processed Raisins are available on the Specialty Crops Inspection Division website at <https://www.ams.usda.gov/grades-standards/fruits>.

SUPPLEMENTARY INFORMATION: This action, pursuant to 5 U.S.C. 553, amends regulations at 7 CFR part 52 issued under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627), as amended. This revision to the U.S. grade standards will also be reflected in enforcement of the grade requirements under the Federal marketing order, 7

CFR part 989, issued under the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 601-674) which regulates the handling of raisins produced from grapes grown in California, and 7 CFR part 999, which regulates the importation of raisins into the United States. AMS is revising these U.S. Standards for Grades using the procedures that appear in part 36 of title 7 of the Code of Federal Regulations (7 CFR part 36).

Executive Orders 12866, 13563, and 14094

USDA is issuing this rule in conformance with Executive Orders 12866, 13563, and 14094. Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 14094 reaffirms, supplements, and updates Executive Order 12866 and further directs agencies to solicit and consider input from a wide range of affected and interested parties through a variety of means. This action falls within a category of regulatory actions that the Office of Management and Budget (OMB) has exempted from review under Executive Order 12866.

Executive Order 13175

This rule has been reviewed under Executive Order 13175 – Consultation and Coordination with Indian Tribal Governments, which requires agencies to consider whether their rulemaking actions would have Tribal implications.

AMS has determined that this rule is unlikely to have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This action is not intended to have retroactive effect. There are no administrative procedures that must be exhausted prior to any judicial challenge to the provisions of this rule.

Background

AMS continually reviews all fruit and vegetable grade standards to ensure their usefulness to the industry, and to modernize language and remove duplicative terminology. Changes to the headings for all tables within the U.S. Standards for Grades of Processed Raisins are required to reflect current CFR formatting requirements. Conforming changes to cross references to those tables within the standards are also applied. After publication of the proposed rule (88 FR 14296, March 8, 2023) a typographical error was found in Table 1 to § 52.1852—Allowances for Defects in Raisins with Seeds—Except Layer or Cluster. Under Defects, Pieces of Stem, U.S. Grade A, allowances were erroneously listed as 7, and are corrected to read as 1.

On October 13, 2017, AMS received a petition from the Raisin Administrative Committee (RAC), which locally administers the Federal marketing order regulating the handling of raisins produced from grapes grown in California (7 CFR part 989). The petition requested that AMS reduce the number of allowable capstems for all varieties, except Zante Currants, in all three Grades (A, B, and C) as follows: for Type I, Seedless Raisins and Type II, Golden Seedless Raisins the allowances for capstems would change in Grade A, from 15 to 10, in Grade B from 25 to 15, and in Grade C from 35 to 20. For Sultana Raisins the allowances for capstems would change in Grade A from 25 to 10, in Grade B from 45 to 15, and in Grade C from 65 to 20. The RAC further stated that, since 1978, the industry has adopted major improvements, including laser sorters, x-rays, and

super vacuums, which allow the industry to clean and sort with far superior results that ultimately exceed the current U.S. Standards for Grades of Processed Raisins.

The AMS Agricultural Analytics Division (AAD) performed a study encompassing a total of 28,059 inspection results of all varieties, except Zante Currants, of both domestically produced raisins and imported raisins to compare USDA inspection results for capstems for a specified period of time with those that would be obtained under the proposed changes submitted by the RAC based on data collected from AMS offices. AAD found that only slightly more than 1% of raisin inspections would result in a change of grade under the proposed rule.

AMS also contacted the United Nations Economic Commission for Europe's (UNECE) largest member countries that produce raisins; Turkey; Germany, Europe's largest importer and consumer of raisins and dean of the European Union standardization sector; and the International Nut and Dried Fruit Council (INC), the largest international dry produce (fruits and nuts) member organization. AMS reached out in July 2020 and heard responses from October 2020 to February 2021 and ultimately made the decision to continue forward. While there was not consensus on the changes, which is not uncommon, with the AAD finding that only slightly more than 1% of recent raisin inspections would result in a change of grade under the proposed rule, AMS concluded that the proposed rule would not be overly burdensome on the domestic or international market, if enacted.

Comments

On March 8, 2023, AMS published a proposed rule inviting comments on proposed revisions to the U.S. Standards for Grades of Processed Raisins in the Federal Register (88 FR 14296). Two anonymous comments were received, one suggesting no price increase based on increased regulation, and one not supporting the proposed

changes stating, “The AMS believes that they will not have a significant impact on the market if they are enacted, so they are not worth to put into effect.”

The intent of the AMS comments regarding the significance of impact on handlers or growers is based on the Initial Regulatory Flexibility Analysis, which considered the economic impact of this action on small entities. Based on the initial Regulatory Flexibility Analysis, AMS does not believe there will be significant impact on handlers’ or growers’ benefits or costs. AMS is moving forward with the revisions as proposed by the RAC as they provide common language for trade and better reflect the current marketing of processed raisins.

Regulatory Flexibility Analysis

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), AMS has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions so that small businesses will not be unduly or disproportionately burdened.

According to the industry, there are approximately 2,000 raisin growers in California. According to the National Agricultural Statistics Service (NASS), for the 2020/21 season, the total value of production for raisin grapes was \$353,200,000. Taking the total value of production for raisins and dividing it by the total number of raisin growers provides a return per grower of \$176,600. A small raisins grower as defined by the Small Business Administration (SBA) (13 CFR 121.201) is one that grosses \$4,000,000¹ or less, annually. Therefore, most raisin producers are considered small entities under SBA’s standards.

¹ The SBA threshold for small producers changed after the publication of the proposed rule. Thus, AMS changed the threshold to reflect the new SBA threshold in this final rule. The change to the raisin producer threshold does not impact AMS's ultimate determination regarding the impact of the rule on small entities.

According to the industry, for the 2020/21 season there are 22 handlers. A small agricultural service firm as defined by the SBA is one that grosses \$34,000,000² or less, annually. Based on the annual handler report, for the 2020/21 season, 242,427 tons of raisins have been transferred to handlers for packing and shipment as of August 31, 2021. The average grower price for raisins, for the 2020 crop, was \$1,191 per ton. A reasonable assumption is that handlers would sell at a 10 percent markup over the grower price, resulting in a selling price of approximately \$1,310 per ton. Multiplying the handler's selling price per ton by the total number of packed tons shipped during the 2020 season provides a gross revenue of \$317,579,370. Dividing the total revenue by the number of handlers reveals an average revenue per handler of \$14,435,425. Based on the calculations above, the majority of raisin handlers are considered small entities under SBA's standard. This action should not have any impact on handlers' or growers' benefits or costs.

List of subjects in 7 CFR Part 52

Administrative practice, Fees, Food grades and standards, Food labeling, Frozen foods, Fruit juices, Fruits, Reporting and recordkeeping requirements, Vegetables.

For reasons set forth in the preamble, the Agricultural Marketing Service amends 7 CFR part 52 as follows:

PART 52 – PROCESSED FRUITS AND VEGETABLES, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS

1. The authority citation for part 52 continues to read as follows:

Authority: 7 U.S.C. 1621–1627.

² The SBA threshold for small agricultural service firms (handlers) changed after the publication of the proposed rule. Thus, AMS changed the threshold to reflect the new SBA threshold in this final rule. The change to the handler threshold does not impact AMS's ultimate determination regarding the impact of the rule on small entities.

2. Amend § 52.1846 by:

a. Removing, in paragraphs (a), (b), and (c) the words “Table I of this subpart”

and adding in their places the words “table 1 to this section”; and

b. Revising, in the table following paragraph (d), the heading and the entry for “Capstems.”

The revisions read as follows:

§ 52.1846 Grades of seedless raisins.

* * * * *

Table 1 to § 52.1846—Allowances for Defects in Type I, Seedless Raisins and Type II, Golden Seedless Raisins

Defects	U.S. Grade A	U.S. Grade B	U.S. Grade C
* * * * *			
Maximum count (per 16 ounces)			
Capstems	10	15	20
* * * * *			

§ 52.1849 [Amended]

3. Amend § 52.1849 by removing the words “Table I” and adding in their place the words “table 1 to § 52.1846”.

4. Amend § 52.1852 by:

a. Removing, in paragraphs (a), (b), and (c), the words “Table II of this subpart”

and adding in their places the words “table 1 to this section”; and

b. Revising, in the table following paragraph (d), the heading and the entry for “Pieces of Stem.”

The revisions read as follows:

§ 52.1852 Grades of raisins with seeds—except layer or cluster.

* * * * *

Table 1 to § 52.1852—Allowances for Defects in Raisins with Seeds—Except Layer or Cluster

Defects	U.S. Grade A	U.S. Grade B	U.S. Grade C
Maximum count (per 32 ounces)			

Pieces of Stem	1	2	3
* * * * *			

5. Amend § 52.1853 by:

- a. Removing, in paragraphs (a) and (b), the words “Table III of this subpart” and adding in their place the words “table 1 to this section”; and
- b. Revising the heading of the table following paragraph (c).

The revision reads as follows:

§ 52.1853 Grades of raisins with seeds—layer or cluster.

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Table 1 to § 52.1853—Allowances for Defects in Layer or Cluster Raisins with Seeds

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6. Amend § 52.1855 by:

- a. Moving table IV to the end of the section following paragraph (d);
- b. Removing, in paragraphs (a), (b), and (c), the words “Table IV of this subpart” and adding in their place the words “table 1 to this section”; and
- c. Revising, in the table following paragraph (d), the heading and the entry for “Capstems.”

The revisions read as follows:

§ 52.1855 Grades of Sultana raisins.

* * * * *

Table 1 to § 52.1855—Allowances for Defects in Sultana Raisins

Defects	U.S. Grade A	U.S. Grade B	U.S. Grade C
* * * * *			
Maximum count (per 16 ounces)			
Capstems	10	15	20
* * * * *			

7. Amend § 52.1857 by:

- a. Moving table V to the end of the section following paragraph (c);

- b. Removing in paragraphs (a) and (b) the words “Table V of this subpart” and adding in their place the words “table 1 to this section”; and
- c. Revising the heading of the table following paragraph (c).

The revision reads as follows:

§ 52.1857 Grades of zante currant raisins.

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Table 1 to § 52.1857—Allowances for Defects in Zante Currant Raisins

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Associate Administrator,

Agricultural Marketing Service.

[FR Doc. 2023-22695 Filed: 10/16/2023 8:45 am; Publication Date: 10/17/2023]